

FILED 13 JUN '14 16:40 USDC-ORE

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

Linda Thompson

(Enter full name of plaintiff(s))

Plaintiff(s),

v.

Gene Lanke et al

(Enter full name of ALL defendant(s))

Defendant(s).

Civil Case No. 6:14-cv-00963-TC
(to be assigned by Clerk of the Court)

COMPLAINT

Jury Trial Demanded

☒ Yes

☐ No

I. PARTIES

List your name, address, and telephone number below, and the same information for each defendant. Make sure that the defendant(s) listed below are identical to those contained in the caption of the complaint. Attach additional sheets of paper if necessary.

Plaintiff

Name: Linda Thompson

Street Address: 581 Lancaster Dr. SE #166

City, State & Zip Code: Salem OR

Telephone No. 503 797 7323

9062

Defendant No. 1 Name: Gene Canke
 Street Address: 5500 Campanile
 City, State & Zip Code: San Diego CA 92182
 Telephone No. 619 594-5000

Defendant No. 2 Name: Church of Scientology
 Street Address: 1330 4th Ave
 City, State & Zip Code: San Diego CA 92101
 Telephone No. 619 239-2091

Defendant No. 3 Name: Dana Duncan
 Street Address: 10004 Cliffview Pl.
 City, State & Zip Code: Spring Valley CA 91977
 Telephone No. 619 465-1307

Defendant No. 4 Name: Shase Care Center, Inc.
 Street Address: 1201 S. Orange Ave.
 City, State & Zip Code: El Cajon CA 92020
 Telephone No. (619) 441-1988

Presently,
 San Diego Post
 Acute as of
 4-1-14

II. JURISDICTION

Federal courts are courts of limited jurisdiction. Only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. A case involving the United States Constitution or federal laws or treaties is a federal question case. A case in which a citizen of one state sues a citizen of another state and the amount in damages claimed is more than \$75,000 is a diversity of citizenship case.

A. What is the basis for federal court jurisdiction (check all that apply)

☒ Primary
☒ Federal Question

☒ Secondary
☒ Diversity of Citizenship

for State Cause of Loss

Defendant No. 5 Name: Kaiser Hospital
 Street Address: 4647 Zion Ave.
 City, State & Zip Code: San Diego, CA 92120
 Telephone No.: (619) 528 5000

Defendant No. 6 Name: Dr. John or Stanford Yee
 Street Address: 4647 Zion Ave
 City, State & Zip Code: San Diego CA 92120
 Telephone No.: 619 528-5000

Defendant No. 7 Name: Dr. Howell
 Street Address: 10990 San Diego Mission Rd
 City, State & Zip Code: San Diego CA 92108
 Telephone No.: (619) 528 1245

Defendant No. 8 Name: Sharp mesa Vista Hospital
 Street Address: 7850 Vista Hill Ave.
 City, State & Zip Code: San Diego CA 92123
 Telephone No.: (858) 278-4110

Defendant No. 9 Name: Dr. Mark ~~Man~~
 Street Address: 7850 Vista Hill Ave.
 City, State & Zip Code: San Diego CA 92123
 Telephone No.: (858) 278-4110

Defendant No. 10 Name: San Diego Wastecore
 Street Address: _____
 City, State & Zip Code: CA
 Telephone No.: 858 877-3701

Defendant No. 11 Name: State of California Health and Human Services Agency Licensing and Certification
 Street Address: 7575 Metropolitan Dr. Ste. 201
 City, State & Zip Code: San Diego, CA 92108
 Telephone No.: (800) 339-4661

Defendant No. 12 Name: State of California Health and Human Services Agency Licensing and Certification
 Street Address: Leebeth Woodin Health Facilities Evaluator Supervisor
 City, State & Zip Code: Same as above
 Telephone No.: 619 688-6190

Defendant No. 13 Name: California Highway Patrol
 Street Address: 1722 East Main St.
 City, State & Zip Code: El Cajon CA 92021-5259
 Telephone No.: 619 401-2000

Department
of Public
Health
Director
Ben Chapman

Defendant No. 14 Name: City of El Cajon
 Street Address: 200 Civic Center Way
 City, State & Zip Code: El Cajon CA 92020
 Telephone No.: 619 441-1716

Defendant No. 15 Name: City of El Cajon City Manager
 Street Address: 1 Douglas Williford 200 Civic Center Way
 City, State & Zip Code: El Cajon CA 92020
 Telephone No.: 619 441-1716

Defendant No. 16 Name: City of El Cajon Mayor
 Street Address: Mark Lewis
 City, State & Zip Code: Same as above
 Telephone No.: 619 441-1716

Defendant No. 17 Name: City of El Cajon Police Department
 Street Address: 100 Civic Center Way.
 City, State & Zip Code: El Cajon CA 92020
 Telephone No.: (619) 579-3311

Defendant No. 18 Name: City of El Cajon Police Dept.
Chief Jim Redman
 Street Address: _____
 City, State & Zip Code: 100 Civic Center Way.
 Telephone No.: El Cajon CA 92020
(619) 579-3311

Defendant No. 19 Name: _____
 Street Address: _____
 City, State & Zip Code: _____
 Telephone No.: _____

Defendant No. 20 Name: California State Senator Joel Anderson
 Street Address: 500 Foster St. #201
 City, State & Zip Code: El Cajon CA 92020
 Telephone No.: 619 596-3136

Defendant No. 21 Name: Calif. State Senator Joel Anderson's office
Ceri Brown, District Representative/Case Worker
 Street Address: Same as above
 City, State & Zip Code: _____
 Telephone No.: (619) 596-3136

Defendant No. 22 Name: Dr. Roberto Carlson San Diego Healthcare
 Street Address: _____
 City, State & Zip Code: CA
 Telephone No.: 858 877-3701

Defendant No. 23 Name: San Diego County
 Street Address: 1600 Pacific Hwy #335
 City, State & Zip Code: San Diego, CA 92101
 Telephone No.: (619) 531-5600

Defendant No. 24 Name: San Diego County Board of Supervisor
Diane Szeab5
 Street Address: 1600 Pacific Hwy #335
 City, State & Zip Code: San Diego, CA 92101
 Telephone No.: (619) 531-5600

Defendant No. 25 Name: San Diego County Dept of Aging and
Independent Services
 Street Address: 1600 Pacific P.O. Box 23217
 City, State & Zip Code: San Diego CA 92193-3217
 Telephone No.: _____

Defendant No. 25 Name: San Diego County Health & Human Services
Agency Dept of Aging and Independent
Services
 Street Address: _____
 City, State & Zip Code: P.O. Box 23217 San Diego, CA 92193-
3217
 Telephone No.: 800 510-2020 339-4661

Defendant No. 26 Name: Perry Moore, San Diego County of San
Diego, Aging and Independence Services
 Street Address: Title: Ombudsman
 City, State & Zip Code: P.O. Box 23217
San Diego, CA 92193-3217
 Telephone No.: 800 339-4661

Defendant No. 27 Name: State of San Diego County Health &
Human Service Agency Dept of Aging and
 Street Address: Independent Services, Pam Smith Director
 City, State & Zip Code: P.O. Box 23217
 Telephone No.: San Diego CA 92193-3217
800 339-4661

State of California
Defendant No. ___ Name: Bureau of Medical Fraud

Street Address: _____

City, State & Zip Code: _____

Telephone No.: _____

Defendant No. ___ Name: Department of Justice State of California

Street Address: _____

City, State & Zip Code: _____

Telephone No.: _____

Defendant No. ___ Name: _____

Street Address: _____

City, State & Zip Code: _____

Telephone No.: _____

Defendant No. ___ Name: _____

Street Address: _____

City, State & Zip Code: _____

Telephone No.: _____

Defendant No. ___ Name: _____

Street Address: _____

City, State & Zip Code: _____

Telephone No.: _____

Defendant No. ___ Name: _____

Street Address: _____

City, State & Zip Code: _____

Telephone No.: _____

- B. If the basis for jurisdiction is Federal Question, what federal Constitutional, statutory, or treaty right is at issue?

§1983 for Civil Rights

Diversity for State Cause of Action

- C. If the basis for jurisdiction is Diversity of Citizenship, what is the state of citizenship of each party?

Plaintiff(s) state of citizenship Oregon

Defendant(s) state(s) of citizenship California

III. STATEMENT OF CLAIMS

Claim I

State here as briefly as possible the facts of your case. Describe how each defendant was involved, when the conduct occurred, and any injuries you have suffered as a result. It is not necessary to give any legal arguments or cite any cases or statutes.

About March 2012

Maria Jacobs was adduced of Elder abuse allegation and did not assist. She did not hire for or manage staff. She was deliberate indifferent.

State Action, discrimination, wrongful death, intentional infliction of emotional distress

Please see Am of Fact and list of causes of loss attached

Claim II

State here as briefly as possible the facts of your case. Describe how each defendant was involved, when the conduct occurred, and any injuries you have suffered as a result. It is not necessary to give any legal arguments or cite any cases or statutes.

8-2011 to 6-2013

Chase Care Center, Inc. Dr. Howell

Negligence intentional infliction of Emotional distress, Elder abuse Fraud.

State Action Conspiracy Discrimination

Claim III

State here as briefly as possible the facts of your case. Describe how each defendant was involved, when the conduct occurred, and any injuries you have suffered as a result. It is not necessary to give any legal arguments or cite any cases or statutes.

January 2013

Kaiser Hospital, Dr. John or Stanford Yee

medical malpractice negligence, failure to mandate reporter to Elder abuse Intentional infliction of Emotional Distress Fraud.

State Action Conspiracy discrimination

(If you have additional claims, describe them on another piece of paper, using the same outline.)

around Nov 2011

Claim IV

Sharp Memorial near Vista Hospital

Dr. Markman

failure to report Elder abuse
or report as mandate reporter

Claim V

San Diego Houscat

Dr. Robert Castro

Breach of contract, failure to report
as mandate reporter Elder abuse

Claim VI

Jan 2012

State of California Health and
Human Services Agency Licensing
and Certification, Director -
failure to report Elder Abuse negligence
wrongful death

Bureau of Medical Fraud
failure to report Elder Abuse negligence
State Action violation of civil rights,
Equal Protection under the laws
California Dept of Justice

Intention Intimidation of Endorser
Address, failure to investigate report
Elder abuse, negligent supervision
training and hiring.

State Action
violation of civil rights, Free speech
and Right to associations

Claim VII

City of El Cajon

El Cajon Police Dept

Intentional infliction of emotional distress, Fraud, failure to act on
Mandate Reporter
Violation of Civil Rights, Free speech
right to association

Claim VIII

Calif State Sen, Joel Anderson

Teri Braun, Case worker

intentional infliction of emotional distress
harassment, Fraud, wrongful death
Strike Action, Conspiracy Discrimination
Violation of Civil Rights, Free speech

IV. RELIEF

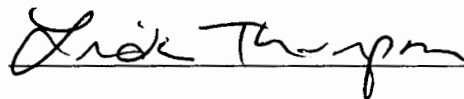
State briefly exactly what you want the court to do for you and the amount, if any, of monetary compensation you are seeking. Make no legal arguments. Cite no cases or statutes.

Plaintiff pray for a judgement in her favor
and an award of:

1. \$ 1,250,000 Compensatory Damages
3,250,000 Punitive Damages

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 13 day of June, 20 14.



(Signature of Plaintiff(s))

FACTS

On about August 14, 2011, Stacy Bernitz, incarcerated Raymond Bernitz into the Chase Healthcare nursing home facility. Chase Healthcare had a copy of his Power of Attorney including his end of life directive. Chase had the opportunity to allow Raymond to be placed at a more appropriate situation but refused. The plaintiff advised the facilities employees, social worker, Pat Marks, Lorren _____ RN, Administrator Christine Whittaker, Physical Therapist, Roger _____ that she had just finished law school on July 30, 2011 and was now available to take over the care of her father. Plaintiff advised the defendants that she had located a home board and care that already agreed to accept her father if he had dementia, was non ambulatory and was incontinent for \$2500 per month. In fact, the referral to this board and care came from Kaisers discharge nurse and their nurse had made a referral to their board and care placement company because Raymond was considered a suitable for this type of care facility. Plaintiff advised the defendants that Raymond was capable of paying for the board and care with his pension, social security and a veterans pension which gave him about \$3900 per month. During the initial meetings with the defendants, my father made it clear he did not want to stay at their facility and preferred to go home.

During the first few weeks, Raymond had a difficult adjustment to Chase Care. The staff did not like attending to all his complaints and concerns. In November, Raymond told me that he was sitting in the hallway with his underwear wedged up his scrotum and he couldn't get anyone to help him. Finally he screamed out and he only recalls being taken in an ambulance to a psychiatric hospital named Vista Hill. It seems he stayed there a few days and despite the requests of the plaintiff that he was being abused, he was discharged back to Chase Health care.

During this time my father's head was nearly shaved for a hair cut. He always wears his hair a couple inches long in the front.

The Chase Care Staff made the recommendation that plaintiff not be allowed to know about her father's treatment to her sister Stacy who claimed power of

attorney and Stacy Agreed. Therefore, soon after her father's incarceration, plaintiff was denied any access to information of her father's treatment or condition.

On one visit his front teeth were there as usual but then when I visited a couple days later, his front teeth were missing. Raymond complained that he had fallen. They appeared to be broken off near the base. When the plaintiff questioned the staff about it, they laughed at her saying they were always that way.

When the plaintiff took Raymond to the front of the facility to get some fresh air and sunshine for ten or fifteen minutes Nurse Loreen abruptly stopped them in the hallway and said that he could not go because lunch was about to be served. Raymond said that he was not hungry, but she would not let him go and was confrontational to plaintiff. After lunch, plaintiff wheeled Raymond to the front of the hospital and just when he thought he had a private moment with the plaintiff, he told her that he would like an attorney to get out of that facility. Just as he was speaking those words, Dr. Howell had pulled up in his car and was listening. Plaintiff was afraid for her father's safety drove to the El Cajon Police Department and reported elder abuse. First, they told her that they would not take a report unless she wrote it down then after the plaintiff wrote down the facts and circumstances surrounding the incident they refused to take it. They would not take any action. The next day, when the plaintiff went to see her father, his nose was bent over and appeared to be broken. When she asked about it to the nursing staff, Amanda laughed and said his nose looked the same as it did since she had been working there. The plaintiff's father complained daily about the treatment from the facility. He asked the plaintiff to call the police but when the police would come he would suddenly claim up. In about August 2012, the plaintiff's father told her that he had been set out in the hallway in his wheelchair and fell out onto the floor and he was in excruciating pain in his back. The nursing staff told the plaintiff they did not have time to watch her father as he needed to provide for his safety. Although he repeatedly said he was in excruciating pain the facility would not take him for an x-ray. Three weeks later, plaintiff contacted the police again about the situation. After that, the plaintiff's father started "itching like crazy" on his back. The bumps seem to break out and

then seemed to smooth over and then break out again. The plaintiff told the nursing staff that the condition may be scabies. The nurse said that they checked him for that and it wasn't. The plaintiff's father continued with this cycle for three and a half months until his scheduled him for a dermatologist appointment which was held in mid-January 2013.

Prior to this, plaintiff had met California Senator Joel Anderson and he had given her his card asking her to call him if she had any questions. Plaintiff did call him about getting her father out of the Chase Care facility. The Plaintiff was transferred to his El Cajon office. She had a strange telephone call with his employee Lori Brown where Ms. Brown told her to come right down and bring her file and her daughter. Ms. Brown's tone seemed hostile and overly aggressive and she did not sound sincere. Plaintiff decided not to follow up with her again about her father. About six or eight weeks later, the plaintiff received a call from Lori Brown saying that she wanted to refer the case to a district attorney like it was a pressing matter and she obtained the plaintiff's permission. However, Ms. Brown would not give the district attorney's name. This was about the beginning of December 2013. Strangely, plaintiff never heard from a district attorney's office.

On the day of his dermatology appointment, plaintiff went to Chase Health Care and she was told that he had fainted and was taken to Kaiser Hospital Emergency. When plaintiff arrived at the ER, her father told her that he was sat up to go to his appointment and while he just arrived there, he either fainted or passed out. He said that he had not been sat up in weeks. When the ER physician arrived, Dr. Yee, plaintiff explained the situation and asked him to look at the skin condition on his back. Dr. Yee refused to look at his back but said that he was aware that there was a big outbreak of scabbies at Chase Health Care. He inferred that if I continued to get help for my father that my father would die like 3:00 a.m. one night. This seriously upset the plaintiff and it was taken as a threat. Then, the doctor walked away. The plaintiff's father was taken to a room and when the social worker came, plaintiff again asked for an examination of her father's back. The social worker was very hostile and refused. The social worker also refused to consider another placement for her father or to consider elder abuse including

neglect for the back condition. The plaintiff's father was returned to Chase Health Care.

Plaintiff told the staff that Dr. Yi admitted that there was a big scabbies outbreak at the facility and she wanted him to have the medicine for that. Soon after that, my father was given a back treatment that left his back deep red and appeared to be burned.

On about Janury 8, plaintiff notified County board of supervisors, Diane Jacobs, that she was going to be added as a defendant to a lawsuit which was subsequently going to be served. This hostile incident with Kaiser happened in the middle of January or about a week later. On about February 8, 2013, Diane Jacobs was sent another letter placing her on notice of the lawsuit to be filed and served. On about February 11, 2013 a suspicious woman was outside the plaintiff's home on the bank across the street looking at the plaintiff when she arrived home and the plaintiff's house. The woman appeared to be on the telephone. Plaintiff ignored her and she finally left. Prior to that in January, it appeared the same woman was following the plaintiff as she crossed the street in Coronado on a Sunday after looking at the Christmas Tree at the hotel Del Coronado. The woman was walking with an attitude of indignant power as the plaintiff and her daughter were crossing the street. There was two vehicles one the side of the road with several men standing by on the sidewalk. Plaintiff feared for her safety and the safety of her daughter so she turned and went another direction so she did not have to walk between them, their car and the woman.

On about Sunday, February 16 2013 plaintiff called Chase Health Care in the afternnon to speak to her father. The nurse Jose gave the hone to him. He was gasping for his breath and said he could not breath. He told me that someone put something in his mouth while he was sleeping. I told Jose to do something and he saifd that he check his oxygen level and he was actually fine and this was not an emergency. I called back a couple hours later and again my father was gasping for air and couldn't speak very good. Again, Jose said he was fine dispite that fack that my father said he could not breath right in front of him. Plaintiff called Stacy

but she was not concerned. The plaintiff was so worried, she remembered Dr. Yi had and about 3:00 a.m. and her father dying so she called about 3:00 a.m. to check on him again. The Plaintiff could not get anyone to answer the phone. She called El Cajon Police to have a well check conducted. The officer told her to go to the facility herself. She called the facility again and a nurse answered and told her he was asleep. The plaintiff did not think these circumstances sounded right so she arranged for an independent doctor to examine her father the next day. Dr. Carlson met her at the facility.

Dr. Carlson and the plaintiff was suddenly accompanied by Stacy. Stacy kept interfering with the examination. Dr. Carlson, cringed when he saw her father's deep red back. He said the only way to heal that condition was to keep rotating him to keep him off his back. Dr. Carlson said that her father's back would not heal if he layed on it. The plaintiff told the doctor that her father keeps falling out of bed. He said that because he was on Cumiden that everytime he fell out of bed her risked his life because if he hit his head he could bleed internally. Because my father was at risk of death because he fell out of bed often, I asked Dr. Carlson to assist me in having my father moved to a more appropriate facility. His conclusion was that the care my father was receiving was somehow acceptable for skilled nursing care standards. Stacy heard this and became happy and left. His conclusion was shocking since my father was not being rotated so his back could not heal and was in danger of hitting his head and dying at all times. Stacy left with his care remaining at this same level. I paid Dr. Carlson about \$500.00 for the examination.

My father said that a lady came to speak to him and introduced herself as a social worker but only asked him about questions about me. Her questions became so offensive, he refused to speak to her anymore. The plaintiff asked Chase Health care verbally and in writing who was this woman was but the facility administration or staff would not respond.

Two weeks before he died, while he was on repite care, a dentist pulled out at least one tooth. My father said that it was painful and believed that the dentise did not use any numbing medicine. He said that it was rough treatment.

list of causes of death
Fraud

Intentional infliction of emotional distress

Wrongful death

Elder abuse

Violation of Civil Rights. Freedom of Association, Freedom of Speech

State Action

Conspiracy

Discrimination

Equal protection

State Claims filed under diversity